

Accordingly, IT IS ORDERED, that, pursuant to Section 73.3568 of the Commission's Rules, the application of SEMFOT to construct a new noncommercial FM station in Midland, Texas on Channel 222C IS DISMISSED.

Sincerely,



W. Jan Gay  
Assistant Chief, Audio Services Division  
Mass Media Bureau

cc: James L. Oyster, Esquire  
John H. Midlen, Jr., Esquire  
Lawrence Roberts, Esquire  
Neal M. Goldberg, Esquire

**EXHIBIT 3**

**COPY OF ELAM LETTER, DATED MARCH 3, 1992**

March 3, 1992

FAXED TO 817 231 9169

Mr. T. Kent Atkins, President  
Southwest Educational Media  
Foundation of Texas, Inc.  
2921 Brown Trail--Suite 140  
Bedford, Texas 76021

Dear Kent:

Pursuant to a letter agreement dated September 13, 1991, Southwest Educational Media Foundation of Texas, Inc. (SEMFOT) and I, as Chapter 7 Trustee for Bakcor Broadcasting, Inc. (Bakcor), agreed to settle the FCC proceeding involving KKIK-FM in Lubbock. As part of that agreement, I agreed to rebroadcast KAMY-FM over the frequency used by KKIK-FM and to permit SEMFOT to sell advertising time for the programs rebroadcast on KKIK-FM and keep the revenue earned from those sales.

At the time I thought that it was in the best interests of the bankruptcy estate of Bakcor to settle the pending litigation at the FCC by entering into the agreement. I understood that resolving the litigation through a comparative hearing could take years and would be very expensive. Therefore, I believed that the settlement was the best option for preserving the assets of the estate even though that meant foregoing current income pending action on the settlement request.

Almost six months have passed since signing that letter agreement and the settlement request remains pending at the FCC. I understand that an opposition to the settlement was filed and that there is an internal investigation of SEMFOT being conducted at the FCC. I have been advised that the opposition to the settlement in conjunction with the internal investigation is likely to result in substantial delay, perhaps as long as several years, in securing action on the settlement request. I have been advised that the FCC may, in fact, require that a hearing be held to resolve the issues raised. It was the

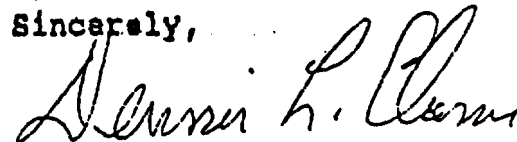
Mr. T. Kent Atkins, President  
March 3, 1992  
Page 2

prospect of avoiding a hearing and the delay associated with it that led to my decision to enter into the agreement with SEMFOT.

As Trustee for the estate I have an obligation to maximize its value for the benefit of creditors. However, it appears that the current arrangement is now inconsistent with that obligation. Not only am I prohibited from selling the assets of KKIK-FM while party to the settlement, but the estate is not realizing any income from the operation of the station. This arrangement cannot continue.

The purpose of this letter is to notify you that SEMFOT has until March 31, 1992, to obtain approval of the joint request for settlement from the FCC. If approval has not been obtained by March 31, then KKIK-FM will cease rebroadcasting KAMY-FM and no income from the operations of KKIK-FM will accrue to the benefit of SEMFOT. In the event that you choose pursuant to Paragraph 4 of the latter agreement to assign your right to purchase KKIK-FM to a buyer who has the requisite qualifications for a grant within the FCC's normal 60-day processing period for applications for assignment of license, I will negotiate an agreement with such buyer and file an assignment of license application with such buyer upon your immediate withdrawal of your pending renewal challenge application.

Sincerely,



Dennis L. Elam  
as Chapter 7 Trustee for  
Bakcor Broadcasting, Inc.  
Bakke Communications, Inc.

DLE:ES

DLE:LC

**EXHIBIT 4**

**MOTION OF TRUSTEE FOR APPROVAL OF TERMINATION OF LETTER AGREEMENT  
WITH SOUTHWEST EDUCATIONAL MEDIA FOUNDATION OF TEXAS, INC.**

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
MIDLAND/ODESSA DIVISION

FILED

APR 10 1992

CHARLES H. JACOBSON, Clerk  
By 12 3:00

IN RE:

BAKCOR BROADCASTING, INC.  
and BAKKE COMMUNICATIONS,  
INC.,

Debtors.

§  
§  
§  
§  
§  
§

CASE NO. 89-70218-RBK  
CONSOLIDATED CHAPTER 7

MOTION OF TRUSTEE FOR APPROVAL OF TERMINATION OF  
LETTER AGREEMENT WITH SOUTHWEST  
EDUCATIONAL MEDIA FOUNDATION OF TEXAS, INC.

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES DENNIS ELAM, Chapter 7 Trustee ("Trustee"), and would show:

1. This Court has jurisdiction over this matter under 28 U.S.C. §§ 1334 and 157, and venue under 28 U.S.C. §§ 1408 and 1409. This motion is filed pursuant to 11 U.S.C. § 363.
2. On September 13, 1991, the Trustee entered into a Letter Agreement with Southwest Educational Media Foundation of Texas, Inc. ("SEMF") providing for sale to SEMF of radio station KKIK-FM, Lubbock, Texas, which provided, inter alia, for the obtaining by SEMF of a construction permit from the Federal Communications Commission ("FCC") for the frequency currently occupied by KKIK-FM, and the rebroadcast or simulcast of programming from radio station KAMY-FM (owned by SEMF) over KKIK-FM until closing. Such Letter Agreement was approved by this Court by order entered October 9, 1991.
3. At the time such Letter Agreement was entered, it was contemplated that SEMF would receive approval of such construction permit, entitling it to become licensed by the FCC to operate on the frequency of KKIK-FM, in approximately 60 days. SEMF has been unable to obtain such approval by the FCC, in part because of objections by competing stations in the market, and may not be able to do so for months or years from this date.

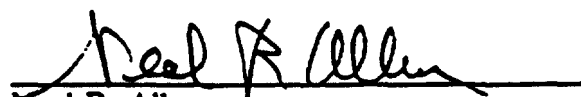
4. By letter dated March 3, 1992, the Trustee gave SEMF notice that it had until April 21, 1992, to obtain approval of its application, and the joint request for settlement from the FCC, and that if such approval had not been obtained then the Trustee would cause KKIK-FM to cease rebroadcasting of KAMY-FM programming as described above. On March 25, 1992, this Court denied a motion by SEMF for an injunction to restrain the Trustee from taking such action, on the basis that the Trustee should not be required to wait indefinitely for SEMF to obtain FCC approval, and to continue such rebroadcasting in the interim.

5. The Trustee is informed and believes that it will be several months or years before the issue of FCC approval of SEMF can or will be finally determined by the FCC.

WHEREFORE, PREMISES CONSIDERED, the Trustee moves for an order of this Court approving his termination of the agreement with SEMF of September 13, 1991, for failure by SEMF to complete and close the same within a reasonable time, and for such other and further relief to which he may be entitled.

Respectfully submitted,

STUBBEMAN, McRAE, SEALY,  
LAUGHLIN & BROWDER, INC.  
550 West Texas Avenue, Suite 800  
Midland, Texas 79701  
915/682-1616  
FAX No. 915/682-1351

  
Neal R. Allen  
State Bar No. 01047000

ATTORNEYS FOR DENNIS ELAM,  
CHAPTER 7 TRUSTEE FOR BAKCOR  
BROADCASTING, INC. and BAKKE  
COMMUNICATIONS, INC.

**EXHIBIT 5**

**PORTION OF RESPONSE OF DENNIS ELAM, TRUSTEE, TO MOTION OF SEMF  
SEEKING TO ENJOIN ACTIONS OF THE TRUSTEE**

**(PERTINENT STATEMENT CONTAINED AT PARA. 4)**



IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
MIDLAND/ODESSA DIVISION

IN RE:

BAKKE COMMUNICATIONS, INC.  
and BAKCOR BROADCASTING, INC.,

Debtors.

DENNIS ELAM, CHAPTER 7  
TRUSTEE FOR BAKKE  
COMMUNICATIONS, INC. and  
BAKCOR BROADCASTING, INC.,

Plaintiff,

vs.


CHARLES KEITH ADAMS d/b/a  
ABILENE COMMUNITY RADIO and  
WESTWIND TWO and SOUTHWEST  
EDUCATIONAL MEDIA FOUNDATION  
OF TEXAS, INC.,

Defendant.

CASE NO. 89-70218-RBK

FILED

MAR 28 1992

DISTRICT COURT  
CLERK'S OFFICE  
By  Deputy

ADVERSARY NO. 91-7017

RESPONSE OF DENNIS ELAM, TRUSTEE,  
TO MOTION OF SEMF SEEKING  
TO ENJOIN ACTIONS OF THE TRUSTEE

TO SAID HONORABLE COURT:

NOW comes DENNIS ELAM, Chapter 7 Trustee ("Trustee"), and files this his  
response to Motion Seeking to Enjoin Actions of the Trustee filed by Southwest Educational  
Media Foundation of Texas, Inc. ("SEMF"), and would show:

## DISMISSAL

1. Bankruptcy Rule 7001 requires an adversary proceeding in order to obtain an injunction or other equitable relief. SEMF appears to be proceeding by motion herein, rather than by adversary proceeding. SEMF has styled its motion as being filed in Adversary No. 91-7017, a pre-existing Adversary filed herein by the Chapter 11 Debtor on March 19, 1991, wherein the Trustee, as substituted party plaintiff, seeks to enjoin SEMF and others from proceeding against the Trustee before the Federal Communications Commission ("FCC"). However, there is no complaint or other pleading in such Adversary by SEMF, by way of answer, counterclaim, crossclaim, or otherwise, which would support the instant Motion for preliminary and permanent injunction.

## BOND

2. SEMF does not offer to put up a bond in order to obtain the requested preliminary injunction. Its proposed Order states "No bond is needed". Such a bond is required by Federal Rule 65(c) and Bankruptcy Rule 7065. The Trustee would suggest that if the motion is granted, a bond in the amount of the balance of the purchase price under the purported Agreement in question of \$62,500 be required to be furnished by SEMF.

## SPECIFIC ALLEGATIONS

3. The Trustee responds to the specific allegations of the Motion as follows:

- a. The allegations of paragraphs 1, 2, 4, 5, 6, 7 and 9 are admitted.
- b. The Trustee denies knowledge of the allegations of paragraph 3 sufficient to form a belief as to their truth.
- c. The Trustee denies the allegations of paragraphs 8, 10, 11 and 12.

4. The Agreement dated September 16, 1991 was an attempt to expedite the sale of station KKIK-FM, Lubbock, so that the Chapter 7 estate could be promptly liquidated and distributed, in view of the fact that competing applications for licensure had been filed with the FCC by the Trustee and SEMF, which matter would take a substantial amount of time to determine. The Agreement provided that the Trustee would either 1) withdraw his application for renewal of KKIK-FM's license, leaving SEMF's competing application as the only remaining application, or alternatively 2) the Trustee would assign his application to SEMF, leaving it to obtain its own license. Either procedure was expected to take approximately 60 days to complete. SEMF chose alternative 2), and the Trustee has made application for such assignment.

5. SEMF has been charged before the FCC as not being a fit or proper applicant for a license for KKIK-FM by Williams Broadcasting Group. It is also being attacked on similar grounds concerning its conduct in operation of other stations. If such challenges are pursued, it will be as long as four years before they are determined under the FCC's usual operating procedures.

6. As indicated above, the Agreement contemplated a closing within approximately 60 days of its date of execution. SEMF already had a smaller, less powerful FM station in Lubbock (KAMY-FM, 3,000 watts), over which it broadcast religious music and programming. The Trustee agreed to rebroadcast KAMY-FM programming over KKIK-FM (100,000 watts) until closing, and to permit SEMF to sell advertising time for such programming and receive all revenues therefrom. It was never contemplated that this arrangement would continue for more than a short time. However, with the filing of the

**EXHIBIT 6**

**EXCERPTS FROM TRANSCRIPT OF MOTION FOR NEW TRIAL, JUNE 30, 1992**

1 A WHICH EXHIBIT ARE YOU REFERRING TO HERE?

2 Q IT'S IN AN OLD EXHIBIT. THIS IS THE ONLY COPY I'VE GOT,  
3 AND IT'S GOT SOME WRITING ON IT.

4 DO YOU HAVE A CLEAN COPY?

5 MR. ALLEN: IT'S IN THIS BOOKLET AT P-5.

6 MR. GILLES: OKAY, IT'S P-5, I BELIEVE. IN THE BLACK  
7 BOOK.

8 MR. ALLEN: PAGE 3.

9 MR. GILLES: PAGE 3, THE LAST SENTENCE OF PARAGRAPH 4.  
10 OR ABOUT THE LAST THREE SENTENCES.

11 BY MR. GILLES:

12 A HERE IT IS.

13 (PAUSE, AS THE WITNESS REVIEWS THE DOCUMENT.)

14 A DO I AGREE WITH MY COUNSEL THAT THAT LAST COMMENT IS FALSE?

15 Q YES.

16 A COULD YOU REFRESH MY MEMORY AS TO WHAT MY -- WHY MY COUNSEL  
17 SAID THAT WAS FALSE?

18 Q I DON'T KNOW WHY HE SAID IT IS FALSE, OTHER THAN THE FACT  
19 THAT, YOU KNOW, ALTERNATIVE 2 HAD NOT BEEN CHOSEN, AND HAS NOT  
20 BEEN DONE. IT HASN'T BEEN DONE TO THIS DATE.

21 A I JUST DON'T UNDERSTAND WHAT IT IS YOU WANT ME TO TESTIFY  
22 TO. I REALLY DON'T. WHAT IS IT?

23 Q DO YOU BELIEVE THAT STATEMENT TO BE TRUE OR FALSE?

24 A IT IS TRUE THAT WE EXPECTED THIS TO TAKE SIXTY DAYS TO  
25 COMPLETE. APPARENTLY YOU'RE REFERRING AS TO WHETHER SEMF DID

1 CHOOSE ALTERNATIVE 2 OR DID NOT CHOOSE ALTERNATIVE 2. IS THAT  
2 THE FALSE PART WE'RE TALKING ABOUT?

3 Q THAT'S PART OF IT.

4 A I DON'T KNOW THAT I HAVE A COMMENT TO MAKE.

5 Q OKAY. REFERRING TO P-7, IN THE BLACK BOOK, THAT'S YOUR  
6 LETTER TO SOUTHWEST EDUCATIONAL -- DID YOU GIVE SOUTHWEST  
7 EDUCATIONAL THE OPTION TO, OR THE ABILITY TO CHOOSE OPTION 2?  
8 OR WERE YOU JUST GOING TO TERMINATE?

9 A IT STATED HERE IN THE SECOND PARAGRAPH THAT THEY HAVE UNTIL  
10 APRIL THE 21ST TO OBTAIN FCC APPROVAL. AND THAT WAS NOT DONE.  
11 I DON'T RECALL THAT WE GAVE THEM -- OPTION 2 BEING THE FINDING  
12 OF SOMEONE ELSE, ANOTHER NAME TO COME IN?

13 Q TO AN ASSIGNEE.

14 A I THINK THAT ALL WE DID WAS ASK FOR AN FCC APPROVAL OF  
15 THEM.

16 MR. GILLES: OKAY. I'LL PASS THE WITNESS.

17 THE COURT: MR. ALLEN, ANY FURTHER QUESTIONS?

18 MR. ALLEN: NO FURTHER QUESTIONS.

19 THE COURT: YOU CAN STEP DOWN.

20 FURTHER WITNESSES, MR. ALLEN?

21 MR. ALLEN: NO, YOUR HONOR.

22 THE COURT: MR. GILLES, ANY FURTHER WITNESSES?

23 MR. GILLES: ONE MOMENT, IF I MIGHT CONFER --

24 THE COURT: OKAY.

25 (PAUSE, AS MR. GILLES CONFERS BRIEFLY.)

**EXHIBIT 7**

**EXCERPTS FROM TRANSCRIPT OF MOTION FOR NEW TRIAL, JUNE 30, 1992**

1 AS MR. GILLES POINTS OUT, THE LAST SENTENCE THERE  
2 IS INCORRECT, IN THAT SEMF ACTUALLY CHOSE ALTERNATIVE 1, AND  
3 THE TRUSTEE DID WITHDRAW HIS APPLICATION FOR RENEWAL. HOWEVER,  
4 I DON'T BELIEVE THIS MAKES ANY DIFFERENCE WHATSOEVER WITH  
5 RESPECT TO THE BASIS FOR THE COURT'S RULING IN THE MOTION THAT  
6 WAS LATER FILED IN THE CASE, BY MR. GILLES, FOR NEW TRIAL,  
7 AFTER THE COURT HAD TERMINATED THE LETTER AGREEMENT. THAT WAS  
8 IN AN ENTIRELY SEPARATE PROCEEDING AND I DON'T BELIEVE THAT THE  
9 COURT WAS MISLED BY THIS PROVISION IN THIS PLEADING THAT MR.  
10 GILLES REFERS TO.

11 THE LONG AND THE SHORT OF IT IS THAT EITHER  
12 PROCEDURE WAS EXPECTED TO TAKE APPROXIMATELY SIXTY DAYS TO  
13 COMPLETE. THAT WAS NOT DONE. THE THING HAS DRAGGED ON FOR  
14 APPROXIMATELY EIGHT MONTHS, AT THE TIME OF THE HEARING, AND  
15 ALMOST A YEAR AT THIS POINT. AND THE FCC APPLICATION HAS NOT  
16 BEEN APPROVED AS FAR AS THE SEMF IS CONCERNED, AS YET.

17 AND SO, I THINK THE BASIS FOR THE COURT'S RULING  
18 THAT AN INORDINATE AMOUNT OF DELAY HAS OCCURRED AND IT OCCURRED  
19 PRIMARILY BECAUSE OF MR. WILLIAMS' FILING HIS COMPETING  
20 OBJECTION, THEN THE FCC AND THE COURT TERMINATED THE AGREEMENT,  
21 WITH THAT, FOR FAILURE TO CLOSE WITHIN A REASONABLE TIME, IS  
22 UNAFFECTED BY THIS ERROR, AND THIS PLEADING IN THE OTHER  
23 MATTER.

24 THE COURT: MR. GILLES. YOU WANT TO CALL A WITNESS?

25 MR. GILLES: I CAN CALL A WITNESS RIGHT NOW AND BEGIN



**EXHIBIT 8**

**LETTER OF COMPLAINT, DATED JUNE 18, 1992 AND ACCOMPANYING  
DECLARATION**

June 18, 1992

Office of the U.S. Trustee  
%Audra Bradshaw  
P.O. Box 1539  
San Antonio, Texas 78295-1539

Dear Ms. Bradshaw,

I am writing to inform you about an incident with a bankruptcy trustee that was appointed by your office that was very offensive to me.

I am referring to Mr. Dennis Elam, the trustee of the Bakcor Broadcasting bankruptcy.

I am an employee of KLSF FM in Amarillo, Texas. I was not going to write to you until I heard that an employee of one of the other Bakcor stations had also filed a complaint against Mr. Elam with your office.

The first time I met Mr. Elam was in November of 1991 when he came to Amarillo to introduce Keith Adams as the new General Manager and future owner of KLSF FM.

In a staff meeting, Mr. Elam was introduced to one salesperson who is known by two names because he is a former announcer and station personality. Mr. Elam said to the effect "Thats ok...I know a couple of Mexicans in Odessa who go by two names too...but thats because they are running from the law".

I consider that statement to be very racial and derogatory to Hispanics. I am Hispanic and am very proud of my heritage. I do not think anyone and especially professional people should make degrading comments about other people and then laugh about it. It is especially worse when such comments are made about minorities.

I was very upset about this comment being made. It was embarrassing and discriminatory. I reported the incident to Mr. David Binkley at the Midland office who in turn reported it to Beth Randall.

In this same meeting, Mr. Elam made unprofessional comments about Mr. Adams which was hard for some of the staff to understand because Mr. Adams was the former owner of the station and many of us had worked for him in the past and were happy that the bankruptcy of the station was finally being resolved.

The employee of the other station that told me about her complaint was on the grounds of sexual harassment and discrimination. I know this is hear say, but I also learned that similar complaints were made about Mr. Elam by other women at one of the other stations.

I don't think the U.S. Trustee should employ people such as Mr. Elam, since he has a lack of understanding for and concern about the employees of the businesses that he is appointed to manage for the bankruptcy court.

If you need any further information, please contact me at the numbers listed below.

Sincerely,

*Susie Dobervich*

Susie Dobervich  
Office Manager  
KLSF 97FM  
4106 Shelby Drive  
Amarillo, Texas 79109  
(806)-371-9797 work  
352-3980 home

# DECLARATION

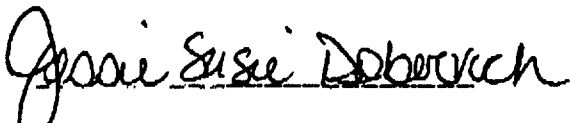
Jessie (Susie) Dobervich hereby makes the following declaration:

1. I am the former Office Manager of FM broadcast station KLSF, Amarillo, Tx.

2. On June 18, 1992, I sent a letter of complaint to the Office of the U.S. Trustee in San Antonio, Tx, complaining of the actions of Dennis Elam, trustee, involving racial discrimination and sexual harrassment.

I declare under penalty of perjury that the facts contained in that letter are true and correct.

Executed on November 19, 1992.

  
Jessie (Susie) Dobervich

**EXHIBIT 9**

**LETTER OF AUDRA BRADSHAW, DATED JULY 10, 1992**



U.S. Department of Justice

*United States Trustee  
Western District of Texas*

July 10, 1992

615 E. Houston Street, Room 533  
U.S. Post Office & Courthouse  
San Antonio, Texas 78205

*Mailing Address:*  
Post Office Box 1539  
San Antonio, Texas 78295-1539

James L. Oyster  
Attorney at Law  
Route 1, Box 203A  
Castleton, Virginia 22716

Re: Bakcor Broadcasting, Inc.  
Case No. 89-70218

Dear Mr. Oyster:

This is to acknowledge receipt of your letter dated June 5, 1992, proposing to refer to the Federal Communications Commission general complaints of employees of Backor Broadcasting System, Inc., involving allegations of sexual harassment and racial discrimination on the part of Dennis Elam, Trustee. Subsequently, I received specific complains from two employees and requested a written response to their allegations from Mr. Elam to the United States Trustee. Upon receipt of Mr. Elam's response and a thorough review of his administration of the Bakcor bankruptcy case, the United States Trustee will conduct an independent investigation of the allegations as is indicated and deemed appropriate.

Yours very truly,

  
Audra R. Bradshaw  
Senior Attorney-Advisor

ARB/gd

**DECLARATION**

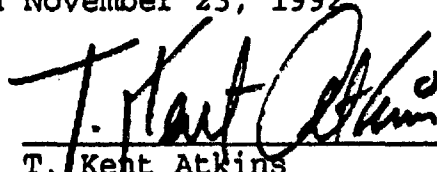
T. Kent Atkins hereby makes the following declaration:

1. He is the President of Southwest Educational Media Foundation of Texas, Inc. ("Semfot"), an applicant for a new FM station at Lubbock, TX.

2. He has reviewed a draft of the foregoing motion to enlarge issues.

3. The facts contained therein are true and correct to the best of his personal knowledge, information and belief.

I declare under penalty of perjury that the foregoing is a true and correct. Executed on November 23, 1992

  
\_\_\_\_\_  
T. Kent Atkins

CERTIFICATE OF SERVICE

James L. Oyster hereby certifies that he has sent a copy of the foregoing MOTION TO ENLARGE ISSUES by first class U.S. mail, postage prepaid, or by hand delivery, on or before the 27th day of November, 1992, to the following:

Paulette Laden, Esq.  
Hearing Branch, Enforcement Division  
Mass Media Bureau  
Federal Communications Commission  
2025 M Street, N.W., Room 7212  
Washington, D.C. 20554

Linda J. Eckard, Esq.  
Roberts & Eckard  
1919 Pennsylvania Ave., N.W., Suite 222  
Washington, D.C. 20006  
Counsel for Dennis Elam

  
James L. Oyster